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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/400,624	09/20/1999	DANIEL R. MONROE	239/217	3617

7590

12/24/2002

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EXAMINER

DAY, HERNG-DER

ART UNIT

PAPER NUMBER

2123

DATE MAILED: 12/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/400,624

Applicant(s)

MONROE ET AL.

Examiner

Herng-der Day

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 September 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 September 1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4,5,6 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-19 have been examined and claims 1-19 have been rejected.

Drawings

2. The following drawings are objected to for a variety of reasons. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2-1. The Draftsperson has objected to the drawings; see the copy of Form PTO 948 for an explanation.

2-2. The drawing of FIG. 6A is objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "600" has been used to designate both "user equipment" and "data collection unit".

2-3. It appears that "CTRL-Z CR or or full?", as described in act 932 of FIG. 9, should be "CTRL-Z or CR or full".

2-4. It appears that "Pass char thru to COMR", as described in act 1008 of FIG. 10, should be "Pass char thru to COMA".

2-5. The drawing of FIG. 13B is objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "1352" has been used to designate both "CONNECTED" and "LINK ESTABLISHED".

2-6. The drawing of FIG. 13C is objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 1350.

Specification

3. The disclosure is objected to because of the following informalities:

Appropriate correction is required.

- 3-1. As described in lines 20-21 of page 17, “a power indicator 120 are shown on the on the enclosure 104”. (Emphasis added.)

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1-19 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

For example, as described in lines 13-16 of page 34, “in act 956 any escape characters are handled, for example the occurrence of the string “+++” through COMA 304, or a disconnect link SMS message received through COMR 308”. However, act 956 and FIG. 9 are branched from act 812 “Char from COMA”. Accordingly, it is unclear why one skilled in the art would like to handle SMS message received through COMR 308 when the process is in the “Char from COMA” branch.

Next, as described in lines 3-4 of page 46, "Preferably the wireless radio is a GMS type modem". However, the detail of the GMS type modem has not been disclosed in the specification. Accordingly, it is unclear how one skilled in the art may make and/or use the invention with this GMS type modem.

Therefore, claims 1-19 eventually contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 1-19 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 of U.S. Patent No. 6,363,335. Although the conflicting claims are not identical, they are not patentably distinct from each other because by applying the patented communications bridge and method for simulating a circuit switched call link to the data collection system within the GSM environment will not only meet the limitations of claims 1-19 but also have the benefit of reusing all the existing conventional data collection

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equipments used in the circuit-switched PSTN without modification or additional cost.

Therefore, it would have been obvious to one of ordinary skill in the art to apply the patented communications bridge and method for simulating a circuit switched call link to the data collection system because all the existing conventional data collection equipments used in the circuit-switched PSTN can be reused without modification.

Allowable Subject Matter

8. Claims 1-19 are not taught exactly by the prior art, and would be allowable if the above rejections under 35 U.S.C. 112, first paragraph and the double patenting are overcome.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Reference to Roberts, Jr., U.S. Patent 6,384,739 issued May 7, 2002, and filed May 10, 1999, is cited as disclosing a traffic monitoring system and method.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Herng-der Day whose telephone number is (703) 305-5269. The examiner can normally be reached on 8:30 - 17:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin J Teska can be reached on (703) 305-9704. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7238 for After Final communications.


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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Herng-der Day
December 16, 2002



KEVIN J. TESKE
SUPERVISORY
PATENT EXAMINER